

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH J. BENZ,

Defendant.

4:13CR3121

GOVERNMENT'S OBJECTION TO
TENTATIVE FINDINGS

COMES NOW the Plaintiff, United States of America, by and through the undersigned Assistant United States Attorney, and objects to the Court's tentative findings that the Court is considering a downward departure to probation on the Court's own motion. (Filing 115).

The United States does not anticipate additional evidence presented in this matter and will rely on argument in its objection at the time of sentencing. Further, the United States has previously submitted a brief as to the law on the issue of whether the Court should sentence the Defendant under the possession statute, count two of the Indictment, or the receipt statute, count one of the Indictment. The United States renews its position that the Court sentence the Defendant to at least five years in prison, pursuant to either Count of the Indictment.

The United States does not believe that an evidentiary hearing is necessary since the Court has already heard evidence of the Defendant's guilt and found the Defendant guilty beyond a reasonable doubt to both counts of the Indictment.

Wherefore, the Plaintiff objects to the Court's tentative finding that it is considering a probationary sentence for any reason.

Dated this 16th day of August, 2016.

Respectfully submitted,

UNITED STATES OF AMERICA,

DEBORAH R. GILG
United States Attorney
District of Nebraska

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CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2016, I electronically filed the foregoing with the Clerk of the Court of the United States District Court for the District of Nebraska by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I hereby certify that I have caused this document to be electronically mailed to the following non CM/ECF participants: Jay R. Holder, Probation Officer

s/Steven A. Russell
STEVEN A. RUSSELL
Assistant United States Attorney